



ATTORNEY DOCKET NO: 16139/09017

2/11/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of Marton and Czako ) Examiner: Wendy C. Haas  
Serial No: 10/068,584 ) Art Unit: 1661  
Filed: February 5, 2002 ) Deposit Account: 50-2548  
Title: Sustained totipotent culture of )  
selected monocot genera )

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**RESPONSE TO RESTRICTION REQUIREMENT WITH TRAVERSE**

Commissioner for Patents  
Washington, DC 20231

Dear Sir:

This is a response to the Office Action dated December 31, 2002. This response is being deposited as First Class Mail on the date noted on the accompanying Certificate of Mailing and is believed to be timely with respect to the one month shortened statutory period for response that was set in the Action.

With respect to the restriction of claims under 35 USC §121, subject to the traverse discussed below, the Applicant provisionally elects the claims of Group I (claims 1 - 17 and 21), and provisionally elects *Spartina alterniflora* as the single disclosed plant species as listed in claim 6. Claims that read on the provisionally elected *Spartina alterniflora* include claims 1 - 31. Of the provisionally elected Group I claims, claims 1 - 17 and 21 read on the provisionally elected species.

The Applicant respectfully traverses the restriction requirement on the basis that a search and examination of the claims included in Groups I through IV (claims 1 - 27) would not create a serious burden for the examiner. It is believed that the search would not be unreasonably burdensome because it will be necessary to use the same key terms -- such as "totipotent", "tissue culture", *Spartina alterniflora*, "primary medium", "secondary medium", and the like -- in searching any one of the proposed groups of claims. Thus, a search that covered the claims of one group would necessarily include

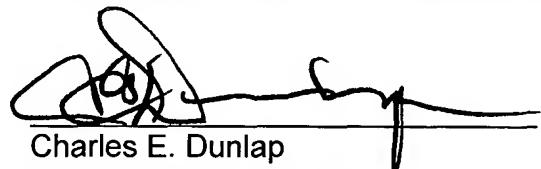
art related to all other claims. It is believed that the result would be that the Examiner would not be required to search the subject matter of one proposed group of claims in places having no art that pertains to claims in the other proposed restriction groupings.

As an alternative, the Applicant respectfully requests that the claims of proposed restriction Group I (claims 1 - 17 and 21), and Group II (claims 18 - 20, 22 and 23), be searched and examined together on the basis that that a search and examination of the claims in these two groups would not create a serious burden for the examiner. The reason for this request is that all claims in these two groups depend ultimately from claim 1 or claim 21, both of which are included in Group I, and differ in that the Group II claims describe transgenic plants, while the claims of Group I are not so limited. Accordingly, it is believed that a search of the Group I claims would, by necessity, include the art pertinent to the claims of Group II, and that examination of the Group II claims could then be carried out without further search.

The Examiner's consideration of this request is respectfully requested. If issues remain unresolved, the Examiner is invited to contact the undersigned at the telephone number given below.

Respectfully requested,

NELSON MULLINS RILEY & SCARBOROUGH



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January 30, 2003  
Date



Practitioner's Docket No. 16139/09017

*GP. 1661*  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Marton, Laszlo; Czako, Mihaly  
Application No.: 10/068,584 Group No.: 1661  
Filed: February 5, 2002 Examiner: Haas, Wendy C.  
For: SUSTAINED TOTIPOTENT CULTURE OF SELECTED MONOCOT GENERA

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Commissioner for Patents  
Washington, D.C. 20231

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CERTIFICATE OF MAILING UNDER 37 C.F.R. section 1.8(a)

I hereby certify that the attached correspondence comprising:

1. Response to Restriction Requirement with Traverse (2 pages).
2. Return postcard (1 page).

is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on January 30, 2003.

Anna A. Von



*Anna A. Von*

Signature of person mailing paper